

No. 4268-3Lab-68/11725.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the President of India is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and management of M/s. Delhi Pulp Industry, Faridabad, N.I.T.

**BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK.**

Reference No. 113 of 1967.

*between*

Shri Dale Ram, workman and the management of M/s Delhi Pulp Industry, Faridabad, N.I.T.

Present: Shri R. L. Sharma, for the workman.

Shri D. C. Bhardwaj, for the management.

#### AWARD

The claimant Shri Dale Ram was working as a Fireman in M/s Delhi Pulp Industry, Faridabad. It is alleged that his services were terminated on 31st January, 1967, because it was reported that he had reduced the pressure of the boiler and the working of the mill was consequently stopped for an hour. The workman is aggrieved by reason of the termination of the services and the President of India in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1947, has referred the following industrial dispute to this Court for adjudication.—*vide* Gazette Notification No. 552-SFIII-Lab-67, dated 1st December, 1967:—

Whether the termination of services of Shri Dale Ram was justified and in order? If not to what relief is he entitled?

On receipt of the reference usual notices were issued to the parties in response to which the workman filed the statement of claim and the management filed their written statement. The management have pleaded that the statement of claim filed by the workman is not in accordance with the rules and that the workman concerned did not give a reply to the charge sheet given to him and absented himself from duty of his own accord. It is alleged that his services have not yet been formally terminated and the relationship of master and servant still exists between the parties. The pleadings of the parties gave rise to the following issues:—

- (1) Whether the statement of a claim is irregular and if so what is its effect?
- (2) Whether the relationship of master and servant still exist between the parties?
- (3) Whether the claimant is absenting himself from duty from 31st January, 1967 of his own accord?
- (4) If the above issues are found in favour of the claimant whether the termination of his services were justified and in order? If not to what relief he is entitled?

#### Issue No. 1:

The only objection against the statement of claim filed on behalf of the workmen is that the date on which his services are said to have been terminated is not mentioned and for this reason the statement of claim is not in order. In my opinion the statement of claim cannot be rejected on this technical ground alone. I find this issue in favour of the workman.

#### Issue Nos. 2 and 3 :

These issues are interconnected and can be discussed together. Shri Mai Chand Gupta, Time Keeper of the respondent concern is the only witness who has appeared on behalf of the management. He has stated that it was reported that the claimant workman Shri Dale Ram had reduced the pressure of the boiler and the working of the mill was consequently stopped for about an hour. Accordingly he was charge-sheeted and immediately put under suspension and there-after he never turned up nor did he send any reply to the charge-sheet given to him. It is stated that the name of the claimant is still borne on the muster roll and the management is still prepared to take him back on duty if he so desires. In rebuttal Shri Dale Ram claimant has appeared as his own witness and stated that on the day in question he was asked to leave the factory and go out. He says that he was not given any opportunity to show cause nor any notice was given to him. He says that he has been reporting himself for duty after his alleged suspension and that he also submitted a reply to the charge sheet given to him. The claimant goes to the extent of saying that he once met "Seth Ji" meaning thereby the Proprietor of the respondent concern who told him not to come to the factory otherwise he would be handed over to the Police.

I have carefully considered the evidence of the parties. If the version of the workman that on 31st January 1967 he was placed under suspension and asked to leave the factory and there-after he was not permitted to attend to his work is to be believed then it would mean that for all practical purposes his services stood terminated with effect from that date and if the management have been marking the workman concerned as absent and did not issue any formal letter terminating his services that would not make any difference and it would not be possible to hold that the relationship of master and servant still subsists between the parties. In my opinion the version of the workman appears to be correct. It is not possible to consider seriously the offer of the management that the workman is at liberty to resume his duties. On 31st January, 1967, he was charged with a misconduct that he had reduced the pressure of the boiler as a result of which the working of the mill came to stand still and he was placed under suspension. Till the suspension order is revoked, the workman could not possibly be permitted to resume his duty and it is not the case of the management that the suspension order has been revoked.

It is stated that the workman left the factory on 31st January, 1967 of his own accord and thereafter he has not resumed duty. As already pointed out the version of the workman is that he has been reporting himself for duty but he was not permitted to do so. It does not appear that the management ever served him with a registered notice calling upon him to reply to the charge-sheet given to him nor any managerial enquiry was initiated to make an enquiry into the alleged misconduct. A workman cannot be kept under suspension for an indefinite period in this manner. It was the duty of the management to come to a definite finding with regard to the report made against the workman that he was responsible for reducing the pressure of the boiler. The management took no step in this direction and they have neither formally reinstated him nor have they terminated his services. The workman has

stated on oath that he once met Seth Ji who warned him not to come to the factory and that in case he persisted in doing so a report would be made to the police. Seth Ji have not even cared to contradict this assertion. Thus the version of the claimant that he was not permitted to resume his duty remains practically un rebutted. Accordingly I find both these issues in favour of the workman.

Issue No. 4 :

No responsible person on behalf of the management has appeared to state that the claimant was infact responsible for reducing the pressure of the boiler. Shri Mai Chand who alone has appeared from the side of the management has no personal knowledge of the incident. He has simply stated that it was reported that the claimant had reduced the pressure of the boiler. The person incharge of the working of the factory has not cared to come into the witness box to say that the responsibility for the reduction in the pressure of the boiler lay upon the claimant. The claimant has explained in his evidence that on 31st January, 1967 he was the

only Fireman on duty, the other Fireman who was in fact his helper was absent. The workman has stated that there are four boilers and on account of the shortage of the firemen the pressure of the boiler was reduced to some extent. This version of the workman also remains uncontradicted. It must, therefore, be held that the termination of the services of Dale Ram were not justified and in order and he is entitled to be reinstated with full back wages and in continuity of his services.

P. N. THUKRAL,  
Presiding Officer,  
Labour Court, Rohtak.

Dated the 25th April, 1968.

No. Dated

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,  
Presiding Officer,  
Labour Court, Rohtak.

Dated 25th April, 1968.

The 8th May, 1968

No. 4324-3-Lab-68/1939.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the President of India is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and management of M/s Laldee (P) Ltd., Industrial Area, Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, ROHTAK

Reference No. 119 of 1967

between

SHRI HARBHAJAN SINGH WORKMAN AND THE MANAGEMENT OF M/S LALDEE (P) LTD., INDUSTRIAL AREA, FARIDABAD

*Presents*

Shri Mohinder Singh, for the workman.

Shri R. P. Tandon, for the management.

AWARD

The claimant Shri Harbhajan Singh was in the employment of M/s Laldee (P) Ltd., Industrial Area, Faridabad. His services were terminated. This gave rise to an industrial dispute and the President of India in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 read with proviso to that sub-section of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—vide Government Gazette Notification No. ID/FRD/219D, dated 7th December, 1967 :—

Whether the termination of services of Shri Harbhajan Singh was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties in response to which the claimant filed a statement of claim and the management filed their rejoinder to the same. It is submitted on behalf of the management that the claimant Shri Harbhajan Singh was appointed as an Engineer Incharge of the factory situated at Mathura Road, Ballabgarh. He was getting Rs 750 per mensem and he was responsible for all kind of supervision and control of the factory and thus he was not a workman. The reference is said to be invalid and bad in law because the claimant was employed in the factory at Mathura Road, Ballabgarh but the reference has been made between the workman and the management at Faridabad. The general Labour Union which has espoused the cause of the claimant is said to be not a Union of any particular industry and that it enrolls members here and there and so no dispute can be raised by a Union of this nature. The dispute is said to be not an industrial dispute because there is no dispute between the workmen as a class on the one hand and the management on the other hand. The terms of reference are also said to be vague in so far as it is not made clear in what manner the services of the claimant were terminated. On merits it is pleaded that the claimant Shri Harbhajan Singh had misused his authority and powers inasmuch as he took away a number of drawings from the factory and passed them on to some other parties and some other articles were also found missing. The management required him to return the documents but the claimant at first pretended that he had lost them but when the management wanted to report the matter to the police the claimant offered to voluntarily leave the service to which the management agreed and the claimant then left the service of his own accord. It is further alleged that while in service the claimant Shri Harbhajan Singh started his own business and erected a workshop and since he had been in the service of the respondent only for about 7 months, he has lost the confidence of the management due to his activities.

1. The claimant in his application pleaded that he was simply employed as a workman and not as an Engineer Incharge. It is admitted that he was getting Rs 700 per mensem but it is pleaded that this included his over time allowance and his actual salary was Rs 450 per mensem. The other allegations are denied. The statement of the claimant Shri Harbhajan Singh was recorded in detail for the purpose of clarifying his pleadings and the following issues are framed on 6th February, 1968:—

- (1) Whether the claimant Shri Harbhajan Singh was responsible for all kind of supervision and control of the factory and was incharge of it and for this reason he does not fall within the definition of workman ?
- (2) Whether the reference is invalid and bad for the reasons mentioned in para No. 2 of the preliminary objections ?
- (3) Whether the claimant himself offered to leave the service and accordingly left the services on 27th March, 1967 ?
- (4) Whether the claimant mis-used his authority and power and has lost the confidence of the management due to his activities and for these reasons he is not entitled to be reinstated ?
- (5) If the above issues are found in favour of the claimant whether the termination of his services was justified and in order ? If not, to what relief he is entitled ?

The parties were directed to produce their evidence on 7th March, 1968. This date was later on changed to 23rd April, 1968 under intimation to the parties. On the date fixed Shri Mohinder Singh, Office Secretary of the General Labour Union appeared on behalf of the workman and the management was represented by Shri R. P. Tandon. Shri Mohinder Singh stated that Shri Roshan Lal Sharma, President of the Union is a candidate for the mid-term Assembly Elections and therefore the case may be adjourned. He however could give no explanation as to why the claimant Shri Harbhajan Singh himself was not present. Under these circumstances it was considered that there was no sufficient ground for adjourning the proceedings and under the provisions of Rule 22 of the Industrial Disputes Punjab Rules, 1958, the evidence of the management was recorded. My findings on the issues framed are as under :—

*Issue No. 1.*—Shri Kailash Chander, Managing Director of the respondent concern has stated that the registered office of the respondent concern is at Dendi and there are two factories, one in Industrial Township, Faridabad and the other at Mathura Road. The witness has stated that the claimant was employed in the factory on the Mathura Road at Rs 700 per mensem and he was in over all charge of the factory. The witness says that the claimant was competent to appoint workmen, fix their salaries, sanction their leaves, issue slips for requisitioning materials, make gate passes, draw materials from the stores and take action against the workers and perform all other functions of the Manager. The claimant in his statement before issues also admitted that his pay was Rs 700 per mensem but he says that he was not employed for the purposes of supervision and that he was an in-charge of workshop only. The claimant was then shown some applications for leaves which the workman employed in the factory submitted to him. These applications are marked Ex. M.2, Ex. M.3, Ex. M. 4 and the claimant admitted that he had sanctioned all these leave applications. The claimant was also shown applications Ex. M.6, Ex. M. 7, Ex. M. 8, Ex. M. 9, Ex. M. 10, Ex. M. 11 and Ex. M. 12 which various persons submitted to him for being appointed as workers in the factory and the claimant in his own hand passed orders appointing each of them as workmen on salaries mentioned in the orders passed by him. The claimant in his statement also admitted that he had passed all these various orders appointing workmen on salaries mentioned in his orders. He has however explained that all these applications were addressed to the management and the Head Office of the respondent concern being in the Industrial Township, he was asked to send all these applications to the Head Office with his recommendations for appointment and that the final approval for the appointment rested with the Head Office and the Salary to the workers was also paid at the Head Office. The various applications referred to above however do not contain any final order of the Head Office and the orders written by the claimant are not in the form of recommendations but they purport to be final orders appointing the various workmen on the salaries mentioned therein. Under these circumstances it must be held that the claimant was appointed in a Managerial capacity at Rs 700 per mensem and that he can not be called a workman. I find this issue in favour of the management.

*Issue No. 2.*—Under section 2A of the Industrial Disputes Act a workman can raise an industrial dispute if his services are terminated even if no other workmen or the Union of workmen espouse his cause. The claimant Shri Harbhajan Singh has himself raised the present dispute through the general Labour Union of which he happens to be a member and office bearer of this Union can therefore represent him in the proceedings before the Court. It does not appear that there is any thing wrong in the order of reference and I find this issue in favour of the workmen.

*Issue No. 3.*—Shri Kailash Chander, Managing Director of the respondent concern has stated that the claimant took away certain important drawings in the 3rd week of March, 1967 upon which he called him and enquired from him about the drawings but the claimant at first denied that he had taken away any drawing but later on confessed and promised to bring them back. The witness says that the claimant also told him that he had started his own factory and was not interested in continuing in service and he also requested that the matter be not reported to the police. The witness says that he had learned before the claimant joined his factory that the claimant had applied to the Electricity Board for electric connection for running his own factory and that application was pending and was sanctioned on 22nd March, 1967. The witness says that the claimant has started a workshop with a machinery similar to the machine maintained by the respondent. The statement of the Managing Director is not rebutted. As already pointed out Shri Mohinder Singh, Office Secretary of the Union did not give any explanation as to why the workman himself was not present for the purpose of giving evidence. I find this issue also in favour of the management.

*Issue No. 4.*—In view of the statement of the Managing Director of the respondent concern that the claimant had taken away certain important drawings and has started his own factory in competition with the respondent, the management cannot possibly have any confidence in him and this issue is also found in favour of the management.

*Issue No. 5.*—In view of my findings on the above issues this issue does not arise and the claimant is not entitled to be reinstated nor is he entitled to any other relief.

No order as to costs.

Dated 25th April, 1968

No. , dated

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

The 25th April, 1968.

**HARYANA GOVERNMENT  
INDUSTRIES DEPARTMENT**

The 8th May, 1968

No. 6890-2IB-68/11349.—Whereas under Para XVII of the Scheme for the reorganisation and reconstitution of the Punjab Financial Corporation formulated under Section 69 of the Punjab Reorganisation Act, 1966 (31 of 1966), sanctioned and certified by the Central Government with their notification No. F6(46)-Corp/66, dated the 23rd March, 1967, the Provident Fund Regulations of the Punjab Financial Corporation shall *mutatis-mutandis* continue to be the Regulations of the Haryana Financial Corporation with effect from the date of incorporation of the Haryana Financial Corporation, that is the 1st April, 1967.

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (XIX of 1925), the President of India hereby

directs that the provisions of the said Act shall apply to the Provident Fund established for the benefit of the employees of the Haryana Financial Corporation;

Further, in exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925, the President of India hereby adds to the Schedule to the said Act, the following public institution, namely :—

“Haryana Financial Corporation constituted in consequence of certification and sanction by the Central Government, of the Scheme for the reorganisation and reconstitution of the Punjab Financial Corporation under section 69 of the Punjab Reorganisation Act, 1966 (31 of 1966), read with the State Financial Corporations Act, 1951”.

R.I.N. AHOOJA, Secy.

**HARYANA GOVERNMENT**

**DEVELOPMENT AND PANCHAYAT DEPARTMENT**

The 6th May, 1968

No. 4580-2ECDI-68/11528.—The following Social Education and Panchayat Officers/Extension Officer will hold the current charge of the block noted against each in addition to their own duties till the appointment of a regular Block Development Officer :—

Serial No.	Name of Social Education and Panchayat Officer/E.O.	Name of Block	Date of holding charge
1.	Shri Lehna Singh, S. E. P. O.	Ateli Nangal	17th April, 1968 (afternoon)
2.	Shri Jagdish Rai, E. O.	Kalayat	16th April, 1968 (afternoon)
3.	Shri Bosa Ram, S. E. P. O.	Rohtak	From the date Shri V. P. Mangi relinquished charge

2. While holding the charge they will exercise the powers of drawing and disbursing Officers of their respective blocks.

S. K. CHHIBBER,

Financial Commissioner, Development  
and Secretary to Government, Haryana,  
Development and Panchayat Department.